

Economic Impact Statement
LSA Document #12-431

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Description of Rulemaking**

In 2012, House Enrolled Act 1312 was enacted by the Indiana General Assembly to create a new exemption from food safety law for producers of raw poultry products of under 1,000 birds per year for sale only on the farm, farmer's markets, and roadside stands so long as the product is sold in a frozen state. This new exemption is listed with other similar exemptions for nonpotentially hazardous foods created in 2009. House Enrolled Act 1312 ([IC 16-42-5-29\(g\)](#)), which became effective on May 31, 2012, required the Indiana State Department of Health to begin a rulemaking to incorporate by reference 9 CFR 381.10(c) to allow poultry products slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmer's market, and at a roadside stand and to require that poultry processed be frozen at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10.

Economic Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

Neither the Indiana State Department of Agriculture nor the Indiana State Poultry Association have valid numbers on how many small flocks may fall under this exemption. So, this is an unknown number at this time.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Although this is unknown, it is estimated that the total costs for the state would be \$10,000 or less per year to maintain records to document their exemption status under the federal exemption.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

It is estimated the same costs above are the only costs associated with maintaining this exemption.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law.

The rule relaxes requirements, and, therefore, the imposed costs are nominal.

5. Regulatory Flexibility Analysis

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

This rule creates a far less regulatory requirement than formerly existed before House Enrolled Act 1312 was passed.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

House Enrolled Act 1312 ([IC 16-42-5-29](#)) became effective on May 31, 2012. The new rule language incorporates by reference 9 CFR 381.10(c) to allow poultry products slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmer's market, or at a roadside stand and to require that poultry processed be frozen at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10 as outlined in [IC 16-42-5-29\(g\)](#).

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

Under the former requirements, the processing of poultry outside of state or federal inspection was prohibited if sold to the final consumer. The new requirement allows this to be done without inspection. Therefore, this unregulated segment of the industry will have less burden overall.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Not applicable.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The only costs imposed under the exemption may be related to the record keeping to document the number and type of birds maintained.

Conclusion

There are no alternatives in the statute, so promulgating a rule is the only avenue provided by the law. The costs to the affected industry will be reduced and any remaining costs will be minimal. According to the Indiana State Poultry Association, there is the larger risk that if a negative food safety occurrence would happen from this unregulated sector, it could affect all of the poultry industry as a whole.

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